

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Nelson Robles, :
: Plaintiff, :
: : 22-cv-7560 (VSB)
-against- :
Ava Ava Bar & Grill LLC, and Carlton Bryan :
: Defendant. :
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ORDER

VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action on September 5, 2022, (Doc. 1), and filed an affidavit of service on Defendant Ava Ava Bar & Grill LLC on September 26, 2022, (Doc. 5.) The deadline for Defendant to respond to Plaintiff's complaint was October 17. (*See* Docs. 5.) On October 24, 2022, I directed Plaintiff(s) to seek default judgment by no later than October 31. (Doc. 7.) I warned, "If Plaintiff fails to do so or otherwise demonstrate that he intends to prosecute this litigation, I may dismiss Plaintiff's claims for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b)." (*Id.*) To date, Defendant has not appeared or responded to the complaint. Plaintiff, however, has not sought default judgment or taken any action to prosecute this case.

I further note that Defendant Carlton Bryan was served on October 13, 2022. His answer was due on November 3, 2022. To this date, Defendant Carlton Bryan has not appeared or responded to the complaint either. If Plaintiff intends to seek a default judgment against Defendant Bryan, he is directed to do so in accordance with Rule 4(H) of my Individual Rules and Practices in Civil Cases by no later than November 14, 2022. If Plaintiff fail to do so or otherwise demonstrate that he intends to prosecute this litigation, I may dismiss the case against

Mr. Bryan for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

Accordingly, Plaintiff's claims against Ava Ava Bar & Grill LLC are dismissed without prejudice pursuant to Rule 41(b). The Clerk of Court is respectfully directed to dismiss Defendant Ava Ava Bar & Grill LLC.

SO ORDERED.

Dated: November 4, 2022
New York, New York



VERNON S. BRODERICK
United States District Judge